INTRODUCTORY ADDRESS

By the Hon. Charles P. Neill,
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Ladies and Gentlemen: The subject selected for discussion this morning constitutes one of the most acute questions to-day in our industrial and in our political life. So important has it become that two years ago the two great political parties of the United States dignified it by making it a plank in each of the two platforms, which would indicate that the question had become one of vital concern to a great many adult males able to vote. It may not be amiss if, in a few words, I attempt to outline to you the situation regarding the particular point in dispute.

In a general way the difficulty in the matter results from the fact that the law is necessarily, inevitably, and, I assume we might add, properly conservative, and that we live in an age of the most strenuously dynamic society the world has ever seen. In one of the fields in which human beings come most often into contact—the field embracing the relations of employer and employee—changes have been rapid, and the law has remained stationary. The organization of wage-earners and its concomitant "the strike" present us a new social problem, and there seems to be no clear and unmistakable statutory declaration defining where the respective rights of the employer and employee begin and end.

As a consequence, a new, peculiar and critical relation, springing up as a result of industrial disturbances, is constantly being carried to the courts of equity for definition as to the respective rights of the parties in dispute.

Within the last few years with increasing frequency the employer fighting strikes has appealed to the equity courts to secure injunctions or restraining orders forbidding his former employees from doing certain things that are being done for the purpose of winning in the industrial conflict.

The employee maintains that in granting injunctions in cases of this sort the court of equity has, in theory, gone beyond its proper function and its legitimate jurisdiction, and that it has, practically,

deprived him of the right of trial by jury and other fundamental rights and privileges guaranteed him by the constitution of the country.

The employer, on the other hand, holds that the equity court has not exceeded its jurisdiction; that it is executing an ancient and proper function; and, moreover, that if he be denied that protection, he is left without any adequate remedy at law in one of the most important situations in industrial life.

So, on the one side, we have the employee claiming that the court of equity is depriving him of fundamental rights—rights which it has taken centuries and centuries of struggle to maintain. And, on the other side, we have the employer insisting that any abridgment of the power of the court means to leave him naked in the hands of his enemies, and his property interests without adequate protection at law.

I have endeavored here merely to present as briefly and clearly as I could the two extremes of the positions taken regarding the subject to be discussed. We must at least admit the question is a vital one on both sides.

We are fortunate in having secured the speakers we have for this morning's session. I doubt very much whether it would be possible to secure in the United States another group of men more competent to discuss this question, better acquainted with it, or more keenly interested in the different phases of the subject.

The opening speaker is a man of international reputation, a fellow-citizen of mine, and a well-balanced reformer. I use this last adjective advisedly. He was one of the commissioners of the suburb of Washington which made the first practical application of the single tax. He was umpire of the Caracas claims before the Mixed Claims Commission. He was also counsel for Mr. Gompers, Mr. Morrison and Mr. Mitchell in the cases arising out of injunctions by equity courts. Mr. Ralston's study of that matter has perhaps made him the best-equipped man of the American bar to discuss the attitude of the labor movement in relation to the question of injunctions.